

**LAURIE A. (BROWN) SWAYNE**  
Claimant

**BEECH AIRCRAFT CORPORATION**  
Respondent

## SELF INSURED

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## ORDER

## ISSUES

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Appeals Board does not have jurisdiction to review this preliminary hearing matter. Therefore, the Order of the Administrative Law Judge remains in full force and effect.

The jurisdiction of the Appeals Board to review a preliminary hearing order is statutorily created by K.S.A. 44-534a and K.S.A. 44-551. K.S.A. 44-534a enumerates four preliminary hearing issues that may be reviewed by the Appeals Board: (1) whether the employee suffered an accidental injury; (2) whether the injury arose out of and in the course of employment; (3) whether notice is given or claim timely made; and, (4) whether certain defenses apply.

The issue currently before the Appeals Board is whether the Administrative Law Judge erred by requiring claimant to schedule her medical appointments through the respondent. As that issue does not fall within the parameters of the issues enumerated in K.S.A. 44-534a as set forth above, the Appeals Board does not have jurisdiction to review this matter pursuant to that statute.

K.S.A. 44-551 generally provides that the Appeals Board has jurisdiction to review a preliminary hearing order when the Administrative Law Judge has exceeded her jurisdiction in granting or denying the relief requested. An Administrative Law Judge is specifically empowered by K.S.A. 44-534a to make a preliminary award of medical and temporary total compensation. Therefore, the order to schedule medical appointments through the respondent is within the Administrative Law Judge's scope of authority and jurisdiction. As a result, the Appeals Board does not have jurisdiction to review this matter pursuant to K.S.A. 44-551.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that it lacks jurisdiction to review this matter and that the Preliminary Hearing Order of Administrative Law Judge Shannon S. Krysl dated November 1, 1994, remains in full force and effect.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of February, 1995.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

**DISSENT**

I respectfully disagree with the majority decision of the Appeals Board as set forth above. Although K.S.A. 44-534a does empower the Administrative Law Judge to decide the question whether claimant is entitled medical benefits or who should treat the claimant, that is not the issue now before the Appeals Board. Because the issue now before us is whether the Administrative Law Judge exceeded her authority by requiring claimant to schedule all medical appointments with her authorized physician through respondent, the Board has jurisdiction to decide this issue under K.S.A. 44-551. Therefore, I must dissent.

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BOARD MEMBER

c: Robert R. Lee, Attorney at Law, Wichita, KS

Angela Rud, Attorney at Law, Wichita, KS  
Shannon S. Krysl, Administrative Law Judge  
George Gomez, Director